FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR.

Second Appeal No. 244 of 2005
(Harichand Jairam Barve & anr. Vs. Mangal Laxman Chandanbatawe & anr.)

Appeal
Application No.
Writ petition

District :
of 200

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's Orders

Mr. S.S. Godbole, Adv. for the appellants.
Mr. S.V. Bhutada Adv. for respondents.

CORAM : Smt. Vasanti A. Naik, J.
DATE : 1st August, 2007

Heard the learned counsel for the parties.

The appellants are the original plaintiffs. A suit was filed by the plaintiffs for permanent injunction restraining the defendants/respondents from obstructing their right of way through the defendants' field. It was the case of the plaintiffs that the plaintiffs had acquired an easementary right of way by prescription as well as necessity.

The defendants denied the claim of the plaintiffs and further denied that the plaintiffs had easementary right of way through the field of the defendants.

Both the Courts concurrently held that the plaintiffs had failed to prove the easementary right of way through the suit way. The Courts held that the plaintiffs had further failed to prove that the defendants had constructed on the suit way during

the pendency of the suit. The Courts, therefore, declined to grant the relief to the plaintiffs.

The findings recorded by both the Courts are based on a proper appreciation of the material evidence tendered by the parties on record. The findings recorded by the Courts are pure findings of facts which do not give rise to any substantial question of law.

Second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP